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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,626	11/17/2000	Wolfgang Hultsch	0112740-113	8129
29177	7590	12/08/2004	EXAMINER	
BELL, BOYD & LLOYD, LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			DUONG, DUC T	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 09/700,626	<b>Applicant(s)</b> HULTSCH, WOLFGANG	
	<b>Examiner</b> Duc T. Duong	<b>Art Unit</b> 2663	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 12 and 13.


Claim(s) rejected: 9-11 and 14-16.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.

10. ☐ Other: \_\_\_\_\_

  
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Continuation of 5. does NOT place the application in condition for allowance because: Regarding to Applicant's argument with respect to claims 9-16 on pages 4-5, Yoshida fails to teach "a receiving unit for receiving both useful data and filling data with a constant data rate via a circuit-switched connection of a first communication network". In Fig. 10 col. 10 lines 15-24, Yoshida discloses a data formatter 44 includes a receive data adapter 52 for receiving data and a receive speed controller 51 for receiving filling data. Now, with reference to Fig. 5 col. 6 lines 18-24, herein Yoshida discloses a transceiver unit 29 for receiving modulate carrier signals through which will feeds to the data formatter 44. Thus, the transceiver unit 29 implied of receiving modulate carrier signals having both useful data and filling data that will feeds to the data formatter 44. Regarding to Applicant's assertion the half rate or full rate in not a variable rate is traversed. In Fig 10 col. 11 lines 5-7, Yoshida discloses the data formatter 44 for reformatting the useful data with the constant rate (ISDN) to a rate varyin of either half rate or full rate. In interpreting the claims, the claims does not require the channels be of a variable rate. So even though the channels is of a constant rate, the combination of different channels together will forms either half rate or full rate. Thus, Yohsida indeed discloses of a variable rate of either half rate or full rate. Based on the reasons set forth the rejections are maintained.